

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
LEWISBURG DIVISION

CEDRIC TYRONE WALKER, ET AL.,
PLAINTIFF,

v.

P. RAMIREZ, et al., FOOD SERVER,
AMY SCHOONOVER, NURSE,
JEANA MITTERLING, RN,
DEFENDANTS,

: 1:17-cv-1938

: CIVIL COMPLAINT

: CIVIL ACTION NO. 1:17-cv-1167-

: (Rambo, J.)

: TRAIL BY JURY

FILED
SCRANTON

OCT 23 2017

I. JURISDICTION & VENUE

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343 (a) (3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff claims for injunctive relief are authorized by 28 U.S.C. Section 2203 & 2204 and Rule 65 of the Federal Rules of Civil Procedure.

2. The Middle District of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1391 (b) (2) because it is where the events giving rise to this claim occurred.

II. PLAINTIFF

3. Plaintiffs, CEDRIC TYRONE WALKER, is and was at all times mentioned herein a prisoner of the State of Pennsylvania in the custody of the Pennsylvania Department of Justice. He is currently confined in Federal Correctional Complex- U.S.P. 1, K-UNIT, P.O. Box 1033, in Coleman, Florida 33521-1033.

III. DEFENDANTS

4. Defendant, Harley G. Lappin is the Director / Commissioner John Showers of the State of Pennsylvania Department of Justice. He is legally responsible for the overall operation of the Department and each institution under its jurisdiction, including Federal Correctional Complex- U.S.P. 1.

5. Defendant, David J. Ebbert, et al. is the Warden / Superintendent, Dr. Steven Skalka of U.S.P. Lewisburg. He is legally responsible for the operation of U.S.P. Lewisburg and the welfare of all the inmates in that prison.

6. Defendant, P. Ramirez, et al. is a food supervisor of the Pennsylvania Department of Justice who at all times mentioned in this complaint, held the rank of FOOD ADMINISTRATION SERVICE and was assigned to U.S.P. Lewisburg.

7. Each defendant is sued individually and in his / her official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

III. FACTS

8. On November 29th, 2016, I was escorted to the quarantine unit for inmates having symptoms associated with food poisoning. I was vomiting, had violent diarrhea, hot and cold spells accompanied by fever, aches, pains, blood in my stool, and inability to retain any fluids which caused dehydration and the need for IV's. Food administration, Warden staff, and medical staff were negligent in their handling of the outbreaks. Two weeks prior, inmates on my tier became sick with these same symptoms and were treated by medical staff. The above mentioned were deliberately indifferent, failing to respond appropriately to the whole population was receiving food properly prepared and served under sanitary conditions. They failed in their duties which led to a wide spread outbreak that could have been thwarted had they shut down the kitchen the week for Veterans Day when they first became aware of the symptoms. Negligence; Salmonella poisoning, vomiting, diarrhea, nausea, hot and cold sweats, fever, blood in stool, dehydration, body aches, and pains, inability to hold bowels for 10 days.

9. "Upon information and belief" Salmonella outbreak confirmed through 42 culture positive specimens. Labs canceled due to treatment of each subsequent symptomatic case as positive.

10. "Exhibit A, Affidavit," "Exhibit B, Medical records," and "Exhibit C, Bp-11 Part B response."

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. Plaintiff CEDRIC TYRONE WALKER used the prisoner grievance procedure available at U.S.P. Lewisburg to try and solve the problem. On or about December 14, 2016, plaintiff CEDRIC TYRONE WALKER presented the facts relating to this complaint. On January 23, 2017, CEDRIC TYRONE WALKER was sent an extension saying response was due by February 8, 2017. On March 21, 2017, CEDRIC TYRONE WALKER was sent a response saying that the grievance has been denied. On February 3, 2017, he appealed the denial of the grievance.

V. LEGAL CLAIMS

12. Plaintiff realleges and incorporates by reference to the paragraphs 1-11 or however many paragraphs the first four sections took.

13. The Negligence; Salmonella poisoning, vomiting, diarrhea, nausea, hot and cold sweats, fever, blood in stool, dehydration, body aches, and pains, inability to hold bowels for 10 days violated plaintiff CEDRIC TYRONE WALKER's rights and constituted Cruel And Unusual Punishment under the 8th Amendment to the United States Constitution.

14. The plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the declaratory and injunctive relief which plaintiff seeks. SEE BB-1111 ADMINISTRATIVE REMEDY PART B - RESPONSE.

VI. PRAYER OF RELIEF

WHEREFORE, Plaintiff respectfully prays that this court enter judgment granting plaintiff:

15. A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States.

16. Apreliminary and permanent injunction ordering defendants P. RAMIREZ, et al., AMY SCHOONOVER, and JEANAN MITTERLING to pay for my paralegal, and type specialist.

17. Compensatory damages in the amount of \$ 20,000 against each defendant, jointly and severall.

18. Punitive damages in the amount of \$ 20,000 against each defendant.

19. A jury trial on all issues triable by jury.

20. Plaintiff's costs in this suit.

21. Any additional relief this court deems just, proper, and equitable.

Dated: 10-17-17

Respectfully Submitted,
CEDRIC TYRONE WALKER
F.C.C. COLEMAN-1 U.S.P.
P.O. BOX 1033
COLEMAN, FL 33521-1033

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe on them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at COLEMAN, FL on October 17, 2017

s/ Cedric T. Walker
CEDRIC TYRONE WALKER

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: WALKER, CEDRIC T. #77071-279 C-UNIT USP-LEWISBURG
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

(Line 8)
On Nov. 29th I was escorted to the quarantine unit for inmates having symptoms associated with food poisoning I was vomiting, had violent diarrhea hot and cold spells accompanied by fever aches, pains blood in my stool and an inability to retain any fluids which caused dehydration and the need for IV's. Food administration, Wardens staff and medical staff were negligent in their handling of these outbreaks. Two weeks prior inmates on my tier became sick with these same symptoms and were treated by medical staff the above mentioned were deliberately indifferent failing to respond appropriately to the whole population was receiving food properly prepared and served under sanitary conditions they failed in their duties which led to a wide spread outbreak that could have been thwarted had they shut down the kitchen the week of veterans day when they first became aware of the symptoms. This request would be appreciated please take my request into consideration.

(Line 10)

Negligence; Salmonella poisoning, vomiting, diarrhea, aches and pains inability hold bowels, for 10 days. (11-2-3-17)

2-3-17

DATE

See BP-10 Regir

sweats, fever blood in stool, dehydration b

100.00

Mr. Cedric Walker

SIGNATURE OF REQUESTER

Part B - RESPONSE

11-2-3-17
RAP - both
RSA -
check

VED

Early Section
Sent to OIG

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

886735-A1

Part C - RECEIPT

CASE NUMBER:

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



Federal Correctional Complex - U.S.P. I, K-UNIT
P.O. Box 1033
Scranton, PA 33521-1033

RECEIVED
SCRANTON

OCT 23 2017

PER


DEPUTY CLERK



18501



1000

Clerk of the Court

Peter J. Welsh

Middle District of Pennsylvania

William J. Nealon Federal Bldg. & U.S. Courthouse

235 North Washington Avenue

P.O. Box 1148

Scranton, PA 18501-1148